D.B. CIVIL WRIT PETITION NO. 1852/2005.
(Tek Chand Vs. State & Ors.)

DATE OF ORDER : 22.08.2005.

HON'BLE MR. RAJESH BALIA,J.
HON'BLE MR. R.S. CHAUHAN, J.

Mr. Ashok Chhangani, for the petitioner.
Mr N.M. Lodha, Addl. Advocate-General.
Mr. S.K. Gupta, for respondents.

Learned counsel for the parties stated that controversy in this case relates to denial of opportunity to cross examine the deponents of affidavits filed on behalf of the respondents in Rent Eviction Application pending before the Rent Tribunal though asked for by the petitioner inter alia on the ground that opportunity of such cross examination is not generally envisaged in proceedings under the Rent Act. The order denying such opportunity has been challenged. The order has been challenged on the ground of its merit as well as validity of Section 21 of the Rajasthan Rent Control Act has also been challenged.

Learned counsel further states that since filing of the writ petition, without going into the question of validity of Section 21 of the Rajasthan Rent Control Act, this Court in Aasandas Vs. State of Raj. & ors., 2005 (1) DNJ 431 has considered the requirement of cross-

examination which is a part of natural justice, also holding that the Rent Control Act does not prohibit adherence to the basic principles of natural justice, keeping in view the controversy which the Court has to decide. The Rent Tribunals taking the view that as a matter of course cross-examination is not to be permitted, without considering the controversy which is required to be decided and the materials other than affidavit available on record which can help in assessing the necessity of cross-examination of witnesses, cannot be said to be right in their approach. It is the obligation of the Rent Tribunal while considering the application for cross-examination to consider pleadings, the facts to be proved by the other party, besides the affidavit, the other material which can help in assessing the requirement of leading evidence and then to decide whether in a given case, permission to cross-examination will be refused. The refusal may be in rare cases. Ordinarily, where the question of facts depends on oral testimony, the cross-examination of deponent has to be permitted when demanded.

In view of the aforesaid decision of this Court in Aasandas (supra), the petition is disposed of with a direction to the parties that the parties may appear before

the Rent Tribunal on 12.9.2005. At the time of admitting the writ petition by way of interim direction, the Rent Tribunal was directed to permit cross-examination of the deponents whose affidavits have been filed.

Learned counsel for the parties state that because of non availability of the Rent Tribunal for a considerable period, the cross examination has still not been conducted. In the circumstances, on the next date, when the parties appear before the Tribunal, the Tribunal shall fix two dates for cross examination of the deponents of respective parties and the parties shall keep their witnesses ready for such cross examination. On such dates fixed by the Tribunal, no adjournment shall be granted except for such substantial reasons which shall be recorded in writing by the Tribunal.

With these observations, the petition stands disposed of.

(R.S. CHAUHAN)J. **(RAJESH BALIA)J.**

Anil/